

#43 / Summary
Second Part
of Bird Deposition
2-23-0
L. Sprue

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Reissue Application of:

BILL L. DAVIS and JESSE S. WILLIAMSON

For Reissue of U. S. Patent 5,630,363
Issued May 20, 1997
Serial No. 08/515,097

Group Art Unit: 2854

Filing Date: May 20, 1999

Examiner: S. Funk
J. Hilten

Serial No.: 09/315,796

For: **COMBINED LITHOGRAPHIC/
FLEXOGRAPHIC PRINTING
APPARATUS AND PROCESS**

**REISSUE APPLICANTS' SUMMARY
OF SECOND PART OF BIRD DEPOSITION**

TO: The Honorable Commission of
Patents and Trademarks
Washington, DC 20231

SIR:

Reissue Applicants believe the aspects of the second part of Bird's deposition significant to this prosecution are as follows:

Bird testified in the second part of his deposition on November 20, 2000, that his original recollection of the Atlanta meeting in July, 1994 [stated in his original PTO declaration, (Bird Dep., Exhibit 2, ¶10) was incorrect, and that after reviewing a restaurant receipt, his monthly calendars, and refreshing his recollection, it could not have been in July 1994 (9:20-10:3). After reviewing his DayTimer for June, 1994, Bird testified that he went to Italy on June 4, 1994 and returned to Dallas June 12, 1994 (29:14-19), and he recalls that he would have gone to Atlanta for the meeting with Jesse Williamson and Bill Davis, but for his trip to Italy (29:4-19).

Bird's best recollection, consistent with his testimony in the Second Supplemental Declaration, was that his disclosure to DeMoore of the Davis-Williamson ['363] process [he learned from Baker after Baker's Atlanta trip] came on June 15, 1994 (See 38:19-39; 56:8-20). Upon learning of it, Howard DeMoore was impressed with the contemplated process (59:17-19; 142:17-18; 160:10-17; and 163:16-166:25). The Graphics Show was June 16 through June 18, 1994, somewhere in Texas (31:15-22; 35:24-25). Regardless, Bird indicates that as soon as he

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had received the information from Baker, he would have told PRI's CEO DeMoore because of its significance (14:8-15:4).

Bird also testified that subsequent to June 12, 1994, starting in mid-August, 1994 and lasting to May 2, 1995, Bill Davis and Jesse Williamson disclosed details of what they wanted in their process, and that the information would have been passed on to various people inside the PRI organization, including DeMoore (19:2-4). Bird confirmed the testimony in his second supplemental declaration. Bird identified, by testimony or cross-examination by counsel Pinkerton for defendants/reissue applicants and exhibits, certain process portions of PRI application Serial No. 08/435,798 that came from Davis and Williamson:

"Q. Okay. Do you recall that a patent application was filed in May of 1995 directed to the cantilevered Ferris wheel device? Do you recall that?

"A. Yes

"Q. And prior to the filing of that application would you have had opportunity to discuss that application with the patent attorney, Mr. Griggs?

"A. Yes.

"Q. And did you provide certain information with respect to that application in regard -

"A. Yes.

"Q. Okay. Yesterday I asked you to review that application, didn't I?

"A. Yes.

"Q. And I only have one copy of this, but I asked you to review the application and mark in there information relating to the details of the printing process; is that correct?

"A. Correct.

"Q. Okay. And did you do that?

"A. Yes.

"Q. Okay. With respect to that information that you've marked in the application relating to the process, who provided you that information?

"A. Williamson Printing.

"Q. And who is Williamson Printing?

"A. Jesse Williamson and Bill Davis.

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"Q. Was that in connection with the various meetings that you had with them and you've discussed throughout this deposition and your declaration?

"A. Yes.

"Q. And would you have been provided that information in the various meetings set forth in supplemental declaration of John Bird, Bird Exhibit 3, which are listed in detail here as item number two?

"A. Yes.

"Q. Okay. Let me hand you -

"A. I still haven't got to three.

"Q. Excuse me?

"A. Still haven't got to three.

"Q. I'm sorry.

"A. Okay.

"Q. So after looking at that is your answer yes?

"A. Yes.

"Q. Okay. Let me hand you now - we'll mark this as Bird - Bird 37?

"THE WITNESS: I think we have a 37.

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"MR. PINKERTON: We're going to mark an exhibit number. It's 37. Bird 37 is the next one. I'm pretty sure.

"(Deposition Exhibit 37 marked)

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"MR. PINKERTON: Following your statement and my telling you that there was no question, I then asked a question. I said has Exhibit 37 been placed in front of you.

"Q. Can you answer that question again, please, sir?

"A. Yes.

"Q. You have it. Identify the document for us, please, sir.

"A. It is the retractable inking coating apparatus having first movement between printing units.

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"A. In a general - it would be an anilox roll with some sort of doctoring device, metering device, which is the general form of a flexo device and would have some means of being able to be retracted on and off impression in and out of the way when not in use and then when in use would be able to apply at the blanket cylinder.

"Q. That concept as you've described, where did that concept come from?

"A. Williamson Printing.

"Q. And who in particular?

"A. Jesse Williamson in particular.

"Q. And anyone else?

"A. Bill Davis.

"Q. Okay. The first that you heard of that concept was when?

"A. That was directly after the meeting in Atlanta with Steve Baker and Jesse Williamson and Bill Davis, et al, to view our UV systems and our high velocity hot air dryer. That was also clear why they were so interested, they being Williamson Printing, in our high velocity hot air drying system.

"Q. Let me pull the - you don't have to hold that any more. Thank you. Now, that meeting - I think you testified that it was of interest to you, the meeting was of interest to you?

"A. Very much so.

"Q. And why was -

"Q. And why was the meeting of interest to you?

"A. Because we were in - already had started discussions, and I think we discussed it earlier, that I think we had started almost synonymous with the settling of the previous court case where Printing Research had sued Williamson Printing, and we knew that as part of that settlement that there was a transaction business that was agreed to be performed.

"I had started working on my relationship with Williamson Printing almost as soon as that case had been settled and was working up a relationship with the Williamson Printing Corporation to that end.

"Q. And approximately when did you start rebuilding that relationship?

"A. Directly after the settlement of the case.

"Q. And approximately when in time was that?

"A. I think it was the end of '93."

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Bird felt that he had no obligation to tell WPC of the filing of Serial No. 08/435,798 (106:3-7). Bird testified that he was coerced by DeMoore into filing the patent application (139:1-16).

Bird confirmed that he [and others at PRI] were told by Jesse Williamson and Bill Davis in January, 1995 at the offices of WPC, that WPC would file a process patent application on the flexographic-lithographic process. (108:10-13).

Bird confirms from Bird's deposition, Exhibit 31 (PRI 00622-3), that the first PRI "EZ Interstation" (EZI) was to be installed the weekend of September 16, 1995 or September 23, 1995 (126:5-7). The first EZI installed at WPC had a lot of mechanical problems, with an adverse result of slow speed (132:2-133:6). Bird himself rejected a calendar made at WPC with the first installed "long arm" EZI because of poor quality (135:5-7).

Bird testified that a proposed agreement on exclusivity between PRI and WPC was never reached (196:18-21).

Finally, Bird testified as to the existence of another patent application – now abandoned – filed in the name of he and DeMoore, that DeMoore himself had no part in the conception:

"Q. Let me ask you to explain what is the meaning of that title to you?

"A. It's – it was an idea that I'd come up with while I was at a conference, which employed the use of water-based inks, flexo type inks, if you like, the water-based inks that we would apply to a waterless printing plate might be another conference and all the talk had been about waterless printing where you take a hydrophobic and a hydrophilic surface and you apply oil-based ink, and then the hydrophilic areas on that plate, the ink collects and it's rejected from the – from the oleophilic. It goes into the oleophilic areas and comes – and is rejected by the oleophobic areas, that printing ink.

"It occurred to me that evening after attending the conference that since the base material was aluminum, and would therefore be hydrophilic, and that the surface coating on that material, plate material, was silicone, that that would be hydrophobic. And so my idea, my concept was that you could actually run water-based inks on a waterless printing plate, therefore, and these discussions were around that process and that product.

"Q. Okay.

"A. With a view to filing a patent.

"Q. Was a patent application actually filed?

"A. Yes.

[illegible]

"Q. Was Mr. DeMoore involved at all in the concept leading to that invention that you have described?

"Q. Who made the decision for Mr. DeMoore to be listed as one of the co-investors?

"Q. It was his decision to make; is that what you're saying?

"Q. And so an application was filed listing you and Mr. DeMoore; is that right?

"Q. And what's your belief about whether or not Mr. DeMoore should have been a co-investor on that patent?

Bird Deposition, 178:3 – 179:22.

The record, at times, was quite contentious, with much tension existing between Bird and DeMoore (e.g., p. 20, line 20 - p. 22, line 12).

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